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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,092	11/02/2001	Joern Ostermann	2000-0600D	5335
26652	7590	04/29/2008	EXAMINER	
AT&T CORP. ROOM 2A207 ONE AT&T WAY BEDMINSTER, NJ 07921			PRENDERGAST, ROBERTA D	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/003,092	OSTERMANN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	ROBERTA PRENDERGAST	2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 March 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 34-42 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/26/2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 34-42 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

Referring to claims 34-42, claims 34 and 37, lines 4-5, and claim 40, lines 5-6, recite the limitation "...the background and animated entity representing separate, non-seamless images". This limitation is not found in the specification as originally filed.

Referring to claims 40-42, there is no support in the specification for a “computer-readable medium storing instructions” as claimed.

Applicant is requested to either identify the location in the specification wherein these limitations may be found or remove these limitations from the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 34, 36, 37, 39, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. U.S. Patent No. 6329994 in view of H. Noot and Zs.M. Ruttkay, “CharToon 2.0 Manual”, Information Systems (INS), INS-R0004 January 31, 2000, hereinafter H. Noot et al. and Herman et al. U.S. Patent No. 6075905.**

Referring to claim 34, Gever et al., teaches a method of creating an animated entity for delivering a multi-media message from a remote sender to a recipient, the method comprising: receiving from the remote sender an image file having a portion associated with an animated entity and a background portion, the background and animated entity representing separate non-seamless images (Fig. 17B-18B; column 3, lines 50-67; column 4, lines 1-25, i.e. an animation having an animated entity and a

background image are stored by the user in an HTML file as separate, selectable, non-seamless images and then sent to the receiver as an e-mail); and delivering a multimedia message comprising the background wherein the animated entity speaks and moves in the context of the background (Fig. 17b; column 29, lines 43-52; column 31, lines 16-47), but does not specifically teach receiving from the remote sender marked features on the image file associated with the animated entity in the context of the background; and wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background.

H. Noot et al. teaches receiving from the remote sender marked features on the image file associated with the animated entity in the context of the background (Section 3.8. Component editing, page 29, figure 11 and paragraphs 3 and 5; page 30, paragraph 3; page 32, paragraphs 2 and 3, i.e. features are marked in an object file to be animated).

Herman et al. teaches wherein as the animated entity moves an extrapolation method fills voids between the animated entity and the background, the background and animated entity representing separate non-seamless images (column 14, lines 14-44, i.e. extrapolation is performed to fill voids at the image boundaries thus indicating that the background image and the animated entity image are separate non-seamless images that are being merged to form a composite image mosaic).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of Gever et al. with the teachings of H. Noot et al. and Herman et al. to include marking features on the

animated object/avatar because providing marked features on the image file allows facial expressions to be accurately modeled during animation and to further include filling voids between the animated object/avatar and the background image as the animated object moves across the background using an extrapolation method thus providing a simple method for image domain extrapolation to handle gaps/voids between a moving object and the background image.

Referring to claim 36, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches the method of claim 34 further comprising receiving a selection from the remote sender of one of a predefined set of animated entities for insertion in a position of the image file associated with the marked features of the image file and wherein delivering the multimedia message comprises presenting the background wherein the selected animated entity speaks and moves in the context of the background (Fig. 5, 7 and 17B; column 3, lines 50-67; column 4, lines 1-25, i.e. the sender selects the identity of the animated object from a predefined list and inserts the object into the background).

Referring to claim 37, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches a system for creating an animated entity for delivering a multi-media message from a remote sender to a recipient, the system comprising modules for performing the steps of claim 34 (Gever et al.: Figs. 1, 4, 5, 15, 16 and 17b; column 8, lines 47-65; column 12, lines 7-61; column 14, lines 36-62; column 28, lines 13-41; column 29, lines 21-64, i.e. a client server system are connected over a network

such that an animated entity is created and transmitted from a remote sender to a receiver thus ).

Referring to claim 39, claim 39 recites the limitations of claims 36 and 37 and therefore the rationale for the rejection of claims 36 and 37 is incorporated herein.

Referring to claim 40, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches a tangible computer readable medium storing instructions for controlling a computing device to create an animated entity for delivering a multi-media message from a remote sender to a recipient, the instructions comprising the method steps of claim 34 (Figs. 1(element 46), column 14, lines 40-63; column 20, lines 26-50 and 59-67, i.e. it is understood that a system having both RAM and disk memory such that animated images are produced in response to an animation program and a browser program for viewing the received animation includes a tangible computer-readable medium storing instructions for controlling a computing device as claimed).

Referring to claim 42, claim 42 recites the limitations of claims 36 and 40 and therefore the rationale for the rejection of claims 36 and 40 is incorporated herein.

**Claims 35, 38 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gever et al. in view of H. Noot et al. and Herman et al. as applied to claims 34, 37 and 40 above, and further in view of Salesin et al. U.S. Patent No. 5666475.**

Referring to claim 35, the rationale for claim 34 is incorporated herein, Gever et al., as modified above, teaches the method of claim 34 but does not specifically teach prior to receiving from the remote sender marked features on the image file associated with the animated entity, zooming the image file to allow the remote sender to more accurately mark the image file associated with the animated entity.

Noot et al. teaches altering an animation by the local or global editing operations such that the user may edit at any level of zooming such that for refined detailed editing the user would want to edit using a maximum size (zoom in) while for rough editing the user would want to edit using a small or medium size image (zoom out) (pages 42-43 section 6.2.4 Creating a new animation, and pages 44-45, section 6.4.1 Views and zooming).

Salesin et al. teaches wherein a user zooms into an image to present the image at a higher level of detail to enable more accurate image editing (column 3, lines 8-17 and column 10, lines 40-46, i.e. a user zooms into an image to present the image at a higher level of detail, a higher resolution, such that the user can do fine detail work (refined editing) at high resolutions (zoom in) and rough detail work at low resolutions (zoom out)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method of Gever et al. with the teachings of H. Noot et al., Herman et al. and Salesin et al. to include zooming the image file to allow the remote sender to more accurately mark the image file associated

with the animated entity thereby allowing the user to zoom and edit portions of an image at an arbitrary size and at different levels of detail.

Referring to claim 38, claim 38 recites the limitations of claims 35 and 37 and therefore the rationale for the rejection of claims 35 and 37 is incorporated herein.

Referring to claim 41, claim 41 recites the limitations of claims 35 and 40 and therefore the rationale for the rejection of claims 35 and 40 is incorporated herein.

### ***Response to Arguments***

Applicant's arguments filed 3/26/2008 have been fully considered but they are not persuasive.

Applicant first argues that Herman et al. is non-analogous to references that relate to animation and that one of skill in the art would not have sufficient motivation to combine these references and that Examiner's response in the final Office Action did nothing to respond to or rebut Applicants' position.

Examiner first notes, that Applicant did not address the portion of the Examiner's response that indicated wherein the Noot et al. reference teaches wherein the animation being generated is a series of still image .gif files such that these files may constitute a

series of still images having an extrapolation step being performed on each image still frame of the animation in order to cover the region around the boundary of the animated entity to fill the void between the animated entity portion and the background portion. One of ordinary skill in the art at the time of invention would be aware that the animation frames of Noot et al. are a series of .gif still image files that when viewed at a given frame rate provide an animated display, see the following paragraph with regards to the Noot et al. and Herman et al. references.

Examiner respectfully submits that Noot et al. teaches wherein Face Player is used to show the effect of an animation by displaying animation frames at a given frame rate such that, while playing the movie, every animation frame is dumped as a .gif file, see page 35, section 4.1 Using Face Player, i.e. each .gif file is understood to be a still image such that displaying the animation requires the display of each of the .gif files at a given frame rate, and Herman et al. teaches wherein a mosaic image is generated from a set of source images such that the source images may include live images, images from various storage media, such as computer files, synthetically generated images, such as computer graphics, and processed images, such as previously constructed mosaic images, see column 4, lines 11-19 and 36-42, and further teaches wherein source images that do not cover the entire domain of the desired mosaic have regions around their boundaries that are filled using extrapolation such that source images are combined in such a way that an object from one source image appears to be in front of a background provided by the other source image, see Fig. 13 and column 6, lines 3-27. Thus modifying Gever et al. with the teachings of H. Noot et al. in order to include

marking features on the animated object/avatar because providing marked features on the image file allows facial expressions to be accurately modeled during animation and further modifying Gever et al. with the teachings of Herman et al. to include using an extrapolation method for filling voids between the animated object/avatar and the background image as the animated object moves across the background image thus providing a simple method for image domain extrapolation to handle gaps/voids between a moving object and the background image.

Applicant next argues that there is no concept within the teachings of Herman et al. that any source image of the images shown in Figure 3B results in being a “background” to any other image.

Examiner respectfully submits that Applicant acknowledges that column 6, of Herman et al., does indeed teach the concept of a first image being cut and pasted into another image thus teaching the concept of a foreground image and a background image, see Remarks pages 10-11, lines 25-6.

Applicant then argues that the extrapolation method cited by the Examiner in column 14 of the Herman et al. reference uses a multi-resolution, pyramid scheme that is used for handling image boundaries so that holes may be filled in the mosaic between source images and does not involve the concept of an extrapolation method to fill voids between an animated entity and a background.

Examiner respectfully submits that Herman et al. teaches wherein extrapolation is performed to fill holes/voids in an image pyramid such that the values of edge pixels are replicated or corresponding pixels from other source images are copied, see column

14, lines 25-44, thus teaching wherein a top layer entity image and a bottom layer background image may utilize a simple extrapolation method to fill voids found between the top and bottom layer source images.

Applicant then argues that Herman et al. teaches, in column 1, lines 20-22, wherein all the images in Figure 3B are blended in a line into a "large, seamless, mosaic image and that amending claim 34 to include wherein the background and the animated entity represent separate images that are non-seamless, see Remarks, page 13, lines 1-7.

Examiner first submits that Herman et al. teaches that the two major steps of the invention are image alignment and merging the aligned images into a large, seamless, mosaic image, thus one of ordinary skill in the art at the time of invention would understand that performing a merging step in order to merge aligned images into a large, seamless, mosaic image indicates that the images are non-seamless prior to the merging step otherwise they would not require blending/merging. Thus combining primary reference Gever et al. with secondary references Noot et al. and Herman et al. teaches all of the limitations of claim 34 as indicated.

Examiner further submits that Applicant's original disclosure teaches performing a blending step on the boundaries of the face model/animated entity, see page 18, paragraph [0060] and that the original disclosure does not explicitly teach wherein the background and the animated entity represent separate images that are non-seamless.

Applicant next argues that it would not be obvious to combine Salesin et al. with Gever et al. and Noot et al. because Noot et al. doesn't teach editing an image that has

different levels of resolution at different places as is the fundamental requirement of Salesin et al.

Examiner respectfully submits that Noot et al. teaches altering an animation by the local or global editing operations such that the user may edit at any level of zooming such that for refined detailed editing the user would want to edit using a maximum size (zoom in) while for rough editing the user would want to edit using a small or medium size image (zoom out), see pages 42-43 section 6.2.4 Creating a new animation, and pages 44-45, section 6.4.1 Views and zooming, and Salesin et al. teaches wherein a user zooms into an image to present the image at a higher level of detail, i.e. a higher resolution, to enable more accurate image editing, see column 3, lines 8-17 and column 10, lines 40-46, such that the user can do fine detail work (refined editing) at high resolutions (zoom in) and rough detail work at low resolutions (zoom out). Thus combining Gever et al., Noot et al. and Herman et al. with Salesin et al. would allow the user to perform fine detail work at a higher resolution in order to enable the user to perform refined image editing. Since both Salesin and Noot each describe zooming in and out to perform editing operations on digital images based on the level of detail required by the user wherein Salesin indicates that the resolution is increased by the zooming operation enlarging the image and Noot indicates that the image is enlarged by the zooming operation then it would have been obvious to combine the primary reference of Gever et al. with Noot et al. to teach receiving from the remote sender marked features on the image file associated with the animated entity and to further combine Gever et al. with Salesin et al. to teach zooming the image file to allow the

remote sender to more accurately mark the image file associated with the animated entity as argued. Thus Noot et al. and Salesin et al. are analogous with respect to zooming images for editing at different levels of detail.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERTA PRENDERGAST whose telephone number is (571)272-7647. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ulka Chauhan can be reached on (571) 272-7782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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